THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.26654 of 2006

DATED: 22.12.2006

Between:

Abdul Aziz, s/o. Late Almas Bin Abdulla.

...

Petitioner

and

The Municipal Corporation of Hyderabad,
rep. by its Commissioner and another.

...Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.26654 of 2006

ORDER:

Heard Smt. G.Jyothi Kiran, learned Standing Counsel representing the respondents.

The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondents in not considering the application, dated.14.07.2006, submitted by the petitioner for grant of building permission in Premises No.6-2-48/3, admeasuring 404 sq. yds. situated at A.C.Guards, near Holy Mary School, Hyderabad, on the ground that No Objection Certificate from the Joint Collector, Hyderabad is not submitted, as illegal, arbitrary, contrary to law, and consequently, direct the respondents to consider the building permission application of the petitioner without insisting 'No Objection

Certificate' from the Joint Collector, Hyderabad, and to pass such suitable orders.

It is stated that the petitioner is the absolute owner of the property premises bearing No.6-2-48/3 admeasuring 404.00 sq. yards. situated near Holy Mary School, A.C.Guards, Hyderabad, and initially, the said land was allotted to the father of the petitioner, who was an Ex.Service Man, on 29.06.1940. It is also stated that the said property was later gifted by the petitioner's father to his elder son/elder brother of the petitioner. The elder brother of the petitioner sold away the property to the petitioner on 09.08.1961. The respondents-Corporation had granted permission to the petitioner to construct a compound wall therein, vide Permit No.94/94 of 1966, file No.13/Open/6/66, dated 22.02.1966. When the respondents- Corporation was interfering with the possession and enjoyment of the petitioner and disputing his ownership, he filed O.S.No.586/1995 on the file of VI Senior Civil Judge, City Civil Court, Hyderabad, and the said suit was decreed on 13.12.2002 in favour of the petitioner.

It is also stated that with an intention to construct a building, the petitioner submitted an application to the Corporation on 14.07.2006. Since, there was no response, the petitioner approached the respondents-Corporation, and the petitioner was informed that his application was not considered, due to non-submission of No Objection Certificate from the Joint Collector. It is needless to say that this Court repeatedly held that while considering the building permission applications, the respondents cannot insist upon the production of No Objection Certificate from the Joint Collector.

In view of the same, the Writ Petition is disposed of directing the respondents to consider the permission application filed by the petitioner, dated 14.07.2006, for construction of the building relating to

the subject matter of the Writ Petition, without insisting any No Objection Certificate from the Joint Collector, Hyderabad, and dispose of the same in accordance with law, within a period of four weeks from the date of receipt of a copy of this Order.

Accordingly, the Writ Petition is disposed of with the above direction. No order as to costs.

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(P.S.NARAYANA, J)

Dt:22.12.2006
vv/bsb